

Virginia Manufactured Housing Board
Minutes
February 19, 2004

Board Members Present: Walter K. Hughes, Sr., Vice Chairman
 Ava Lewis
 Roger L. Mitchell
 William H. Moody
 Michael C. Nickell
 Ida O. McPherson
 William B. Toombs

Board Members Absent : James W. Roncaglione, Chairman
 E. Thomas Satterwhite

Public Representatives : Mike Richards, Legal Counsel representing Redman Homes

A. Call to Order/Roll Call/Determination of a Quorum.

The Virginia Manufactured Housing Board Meeting was called to order by Vice Chairman Hughes, Sr. at 10:05 a.m. The Roll Call was done by Curtis L. McIver, Secretary to the Board and a Quorum was present.

B. Approval of the Minutes.

The Virginia Manufactured Housing Board Minutes were accepted as presented. A motion was made by William H. Moody and second by Michael C. Nickell. Vice Chairman Hughes called the question and Aye's carried the vote.

C. Public Comment.

None.

D. Committee Reports.

None.

E. Report of the Secretary.

1. Licenses and Recovery Fund Reports.

Currently licensed are 8 Brokers, 264 Dealers, 55 Manufacturers and 783 Salespersons.

The cash balance for the Licensing Account is \$14,944.07. The cash balance in the Transaction Recovery Fund Account is \$844,557.42.

F. Unfinished Business.

1. Renae Marshall vs. Millennium Homes.

A draft of the final order was included in the Board's package, which explained the history of this case. The Board reviewed the final order and the amount of award increased by \$3,000.

Vice Chairman Hughes, Sr. – May I have a motion to accept the final order?

William H. Moody – I make a motion to accept the Final Order as written.

Ava Lewis – Second.

Vice Chairman Hughes, Sr. – All in favor, say Aye. Aye's carried the vote.

2. Hassell & Debra Underwood vs. Double D. Homes (Dealer Closed).

Included in the Board Member's package is the recommendation from Mr. Hughes, Sr., the Informal fact-Finding Conference Hearing Officer.

Mike Richards, Attorney representing Redman Homes from Wooten and Hart, Roanoke, Virginia, stated that the majority of the items the manufacturer has been deemed responsible for they will pay for them. The Board discussed each item and the following was determined:

- Item 1. Cosmetic.
- Item 2. Not the manufacturer's problem.
- Item 3. Dealer related.
- Item 4. Dealer related.
- Item 5. Dealer related.
- Item 6. Dealer related.
- Item 7. Dealer related.
- Item 8. Dealer/contractor.
- Item 9. Dealer/contractor.
- Item 10. Dealer/contractor.
- Item 11. Manufacturer will address.
- Item 12. Dealer/contractor.
- Item 13. Fixed by the customer
- Item 14. Dealer/contractor.
- Item 15. Dealer/contractor.
- Item 16. Manufacturer agrees to clean.
- Item 17. Dealer/contractor.
- Item 18. Manufacturer will fix.
- Item 19. Manufacturer will fix.
- Item 20. Cosmetic.
- Item 21. Manufacturer will address.

- Item 22. Dealer.
- Item 23. Dealer related.
- Item 24. Cosmetic.
- Item 25. Dealer.
- Item 26. Cosmetic.
- Item 27. Manufacturer will fix.
- Item 28. Cosmetic.
- Item 29. Manufacturer will fix.
- Item 30. Cosmetic.
- Item 31. Dealer/contractor.
- Item 32. Dealer/contractor.
- Item 33. Dealer/contractor.
- Item 34. Dealer/contractor.
- Item 35. Manufacturer will fix.

Vice Chairman Hughes, Sr. – This dealer operated without a license and when the customer tried to get repair work done through the dealer, the dealer filed bankruptcy. The customer did not have recourse. During the process of the informal fact-finding, Mr. Dye's partner stated that he set the house. Curtis and Lorenzo have spent a great deal of time trying to find out whether these people had a contractor's license. They have a contractor's license now; however, they did not have one before. This is the same individual who operated for two years selling homes without a license from this Board. The house needs to be taken down, reset with a proper foundation; however, this is not this Board's jurisdiction.

Ida O. McPherson – Mr. Hughes, actually, I think it is. I take the position that the language that is in our Regulations would give us enough authority to regulate dealers as it relates to defects in workmanship. This is a defect in workmanship.

Curtis L. McIver – Don Dye as the individual was the President of Double D Mobile Homes. Double D, Inc. went out of business. That corporation and dealership no longer exist. He has come back into business opening up another company by the name of Mobile Manor Mart, LLC. The individual Don Dye is back in business again; however Mobile Manor Mart, LLC did not sell or set this home. The company that sold and set this home was Double D, Inc.

Ida O. McPherson – As we have treated other dealers out of business, we would treat this as a claim under the Recovery Fund and while he was in business, he set it as a dealership.

Vice Chairman Hughes, Sr. – When did he set the home?

Ida O. McPherson – I feel Don Dye has to make that claim and to say, I set the house improperly as an individual unlicensed trying to do it as a contractor. All we know is this dealership at that point was responsible for setting this home. I think we can take this through the recovery fund.

Vice Chairman Hughes, Sr. – Do you make a motion to that affect?

Ida O. McPherson – I make a motion to that affect. I can highlight that more when we talk about the Portman case. In the Portman case, I had to revisit the whole issue of what the Board's authority is under the Regulations.

Vice Chairman Hughes, Sr. – May I have a second?

Roger L. Mitchell – Second.

Vice Chairman Hughes, Sr. – The statement is that we handle this case as we did prior cases before notifying the Contractor's Board.

Curtis L. McIver – Double D is out of business. If the Board addresses this under the transaction recovery fund, the Board could propose a final order to assess damages against the closed dealership and make payment from the recovery fund without going to a formal hearing as long as the manufacturer has no objections.

Vice Chairman Hughes, Sr. – All of those in favor say Aye. Aye's carried the vote.

Vice Chairman Hughes, Sr. -- We need to contact to the Underwoods requesting them to find someone who will give the Board a good estimate on repairs of their home and return to the Board with this information.

Much discussion was done concerning the leveling of this home. The Board is asking that the home be made level, put piers in the proper location and doors aligned. The Board is concerned with how many problems maybe found or created once the work process begins.

Vice Chairman Hughes, Sr. – Ida, what amount of money do you recommend?

Ida O. McPherson – I make the recommendation that we pay the amount of \$4,000. We have already determined that the estimate previously submitted we believe is out of line in terms of industry standards. We used figures before and are trying to be consistent with the use of our figures.

Roger L. Mitchell – Second.

Vice Chairman Hughes, Sr. – Is there further discussion?

Response: Yes.

Mike Richards – For clarification of the records, we are responsible for Items 11, 16, 18, 19, 21, 27, 29, and 35. This completes the list. For clarification, our corrections are going to be made after the house is reset. Is this correct?

Vice Chairman Hughes, Sr. – The best way is allow the house to be reset.

Mike Richards – My final question, is there going to be some type of agreement whereby if this house is reset, it has been incorrectly set for quite sometime, and it does create some additional issues, how does this affect us?

Vice Chairman Hughes, Sr. – You will not have to worry about anything other than what is on the list that we, the Board members, have discussed with you.

Ida O. McPherson – I think we should provide the Underwood's with a list of items that are the manufacturer's responsibility so that they don't use up their monies for unnecessary repairs.

Curtis L. McIver – I suggest, as staff, we will work on drafting the final order to address this and spell out the specific items and the order in which things need to be done. We will send a copy to Mr. Richards for his review.

Roger L. Mitchell – I suggest a time frame to have the home re-leveled, approximately, 6 months.

Mike Richards – May we request in the letter to the Underwood's that they give us notification as soon as it is done so that we can be at the home-site.

Vice Chairman Hughes, Sr. – Yes.

Curtis L. McIver – Do you want to amend the Board's motion to include the 6-month time frame?

Ida O. McPherson – Yes, I so move.

Vice Chairman Hughes, Sr. – Second.

Roger L. Mitchell – Also notify this office and the manufacturer when the work has been completed.

Vice Chairman Hughes, Sr. – All of those in favor, say Aye. Aye's carried the vote.

3. Catherine Portman vs. Colonial Homes.

Much discussion was done on this case and the Board needs to review the recommendation submitted by Attorney McPherson. Therefore, this item is tabled until the Board's next meeting.

4. Elizabeth Conn vs. Colonial Homes.

Much discussion was done on this case and the Board needs to review the recommendation submitted by Attorney McPherson. Therefore, this item is tabled until the Board's next meeting.

5. Brigette Bullock vs. American Homestar Corp.

This case came before the Virginia Manufactured Housing Board and was heard during the meeting of January 15, 2004. The determination by the Board was entered and informed to Mrs. Bullock by letter dated February 10, 2004. The manufacturer involved in the case is no longer in business. Ms. Bullock contacted the State Building Code Office by telephone on February 12, 2004, acknowledging receipt of the letter. She also indicated that the terms and conditions of the Board's decision were acceptable. Vice Chairman Hughes signed the final order number 2004-2 at this meeting.

6. Karen Foster Cunningham, Guaranty Homes – Appomattox Co. issue.

A letter dated February 10, 2004, was sent to Kathleen Davis Johnson, homeowner, requesting copies of the contract with Guaranty Homes, and any other supporting documentation be sent to this Office. However, staff has not received those documents.

7. Proposed amendments to the Regulations.

The proposed amendments that were submitted through the Department of Planning and Budget to Governor Gilmore's office were attached for the Board's review. Language to be added to the Regulations as part of the amendments is underlined. Any text to be deleted or removed from the Regulations is shown with a line struck through the text. Staff has not heard anything from this proposal.

8. Pending Items – Appeals filed to Circuit Court.

- a. Brenda Washington vs. Colonial Homes – Staff at the AG' Office received a draft of the judge's order that had been drafted by Mr. Gravett citing several items. Gravett's final order as he drafted it would have had the case continued in court to argue awarding court costs and attorney's fees. Rob Sievers submitted an alternate court order to the judge and to Mr. Gravett suggesting that if Mr. Gravett does not agree to this order that both drafts be given to the judge and allow the judge to make the decision. Staff is waiting judge's orders. Attorney McPherson will do further research and write a response to the attorney general's office, attention Rob Sievers on this matter. Curtis McIver will forward the correspondence to the Attorney General's Office.
- b. Ronald Morehart vs. Blairs Housing and Liberty Homes – Appeal is pending. No petition date. No action taken by the Board.
- c. Christine White vs. Colonial Homes – Appeal is pending. Hearing date not set. No action taken by the Board.
- d. License application from John C. Witcher, Jr. – A Gem Homes – the Attorney General's office filed for motion to dismiss.
- e. John and Geraldine Brain vs. Manufactured Housing Board – An appeal has been filed by the complainant. No hearing date has been set. No action is needed by the Virginia Manufactured Housing Board.

9. Completed Agenda Items.

None.

G. New Business.

1. Steven DuVal vs. Vicki's Homes, Inc. Staff wrote a letter to Vicki's Homes with a response deadline of March 1, 2004. This issue will be placed on the Board's agenda for March 18, 2004 meeting.

H. Next meeting date and location.

The next meeting of the Virginia Manufactured Housing Board is scheduled for Thursday, March 18, 2004, at the Department of Housing and Community Development, the Jackson Center, 501 N. 2nd Street, 1st Floor Board Room, Richmond, VA 23219. Telephone No. (804) 371-7160.

I. Adjournment

The meeting was adjourned at 1:00 p.m.